STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105

RH03026746 **June 23, 2005**

PROPOSED PLAN OF OPERATIONS TEXT

CALIFORNIA AUTOMOBILE ASSIGNED RISK PLAN

Amend Section 8 to read as follows:

Sec. 8. DETERMINATION AND FULFILLMENT OF PRIVATE PASSENGER NONFLEET LIABILITY QUOTAS

[Paragraph B is amended as follows.]

B. Limited Assignment Distribution Procedure

Groups of insurers not under common ownership or management may form a Limited Assignment Distribution (LAD) arrangement. Each LAD arrangement shall have one servicing company which writes assigned risk business on behalf of those members of the arrangement which choose to buy-out from their quotas.

1. LAD servicing companies are appointed by the Commissioner and must meet and continuously maintain the following eligibility requirements~~:~~ If at any time, the servicing company does not meet one or more of these eligibility requirements, the servicing company must notify the Plan. These requirements are applicable to the individual insurer that is applying to serve as a LAD servicing company.

   a write at least .5% of the voluntary private passenger nonfleet car years as defined in Section 8.A.1 written in the state of California. If the individual insurer does not meet the .5% market share and is part of a group operating in California common ownership, control and management, the voluntary private passenger nonfleet liability car years of all insurers in the common ownership, control and management group combined may be used to fulfill this requirement.

   b have a statutory capital and surplus of at least ~~$10,000,000~~ $25,000,000 ~~surplus~~.

c. have and maintain a net premium to surplus ratio that does not exceed 3 to 1.

d. have maintained a financial rating from a recognized rating service with expertise in the insurance industry of A- or better for a continuous three-year period from the most current publication date of an applicant rating.

e. have been licensed and writing private passenger automobile liability insurance without restriction for a period of at least three years in California.

f. Certify to the Commissioner its ability to

(1) comply with the requirements of the Plan and applicable regulations, and

(2) service the LAD contract(s).

2. The Commissioner has the option to consider a LAD servicing company application from an insurer that does not meet the following eligibility criteria:

a. The market share requirement may be waived if the market share of the individual insurer, or if applicable, the combined market share of the group of insurers is less than .5%. ~~writing less than .5% of California voluntary private passenger nonfleet car years or which has no market share, provided~~ However, the insurer or group of insurers must ~~agrees to~~ meet the market share eligibility requirement within three years from the date the insurer becomes a LAD servicing company. Appointment as a LAD servicing company is subject to approval by the Commissioner.

Exception: An insurer appointed and serving as a LAD servicing company ~~prior to~~ at the inception of this LAD program that does not meet the market share eligibility requirement of this LAD program ~~or that has no market share~~ shall agree to meet the market share requirement within ~~five~~ three years of the effective date of this Section, in order to continue as a LAD servicing company.

b. The three-year period that the insurer must be licensed and writing private passenger automobile liability insurance in the state may be waived.

The Advisory Committee may recommend to the Commissioner that a company who does not meet one or more of the eligibility criteria in Sections 8.B.2.a through b above be appointed as a LAD servicing company.

3. The following LAD servicing company eligibility requirements are not subject to exception in the evaluation of an insurer to serve as a LAD servicing company:

a. The statutory capital and surplus requirement

b. The net premium to surplus ratio requirement

c. A financial rating

4. When the estimated Plan Private Passenger Nonfleet AIP premium based upon the first quarter (February 1 through April 30) quota distribution report is greater than one million dollars, each servicing company shall be subject to a limitation on additional assignments it may write on behalf of buy-out companies. This limitation shall be determined annually in accordance with the following formula:

$$\textit{Limitation} = \frac{[\textit{Market Share of Available Eligible LAD Buy-out Companies}]}{[\textit{Number of Active Servicing Carriers}]} + 10\%$$

The resulting percentage shall be rounded to the nearest whole percentage. The market shares of the available eligible LAD buy-out companies shall include the market shares of current buy-out companies and the market shares of companies who are otherwise eligible to buy out in LAD in the future. Active LAD servicing companies are those receiving LAD assignments through the LAD arrangement.

The servicing company limitation on additional assignments shall be subject to annual review by the Advisory Committee.

5. Monitoring Servicing Company Eligibility

The Plan will annually review the eligibility of each servicing company to insure it continues to meet eligibility requirements. Such review may include, but is not limited to, verification of any or all of the eligibility criteria in Section 8.B.1, review of quarterly financial statements filed by the servicing company with the Department of Insurance, and monitoring of the volume of LAD business written in relation to any applicable assignment limitation.

If the Plan determines that a servicing company does not continue to meet one or more of the eligibility requirements in Section 8.B.1, the Plan shall immediately provide written notification to the servicing company and Advisory Committee. If the servicing company advises the Plan that it no longer meets one or more eligibility requirements, the Plan shall verify the information and provide written acknowledgement to the servicing company. The Plan shall immediately advise the Advisory Committee, in writing, that the servicing company no longer meets one or more of the eligibility requirements. The Advisory Committee may recommend to the Commissioner remedies, including but not limited to, providing a period of time to remedy the cause of ineligibility or termination of the LAD servicing company.

6. Monitoring Buy-out Capacity

AIPSO, acting on behalf of the Plan, will review on a quarterly basis the volume of additional assignments written by each servicing company on behalf of buy-out companies in the LAD arrangement and advise the Plan.
If an assignment volume limitation exists, AIPSO's review may include an estimate as to when the servicing company might approach, meet, or exceed the limitation. The Plan will provide the servicing company and Advisory Committee with written notification on the status of that servicing company's capacity to continue to accept LAD assignments.

The Plan will bring any servicing company that either is expected to exceed or has exceeded the assignment limitation to the attention of the Advisory Committee. The servicing company shall be provided at least 20 days advance written notice of the Advisory Committee meeting at which the matter will be discussed. During the period between notification to the servicing company of meeting or exceeding its limit and the date of the Advisory Committee meeting, the servicing company will continue to accept buy-out company assignments.

If a servicing company is either expected to exceed its limitation or has exceeded its limitation, the Advisory Committee may recommend to the Commissioner remedies including but not limited to one or more of the following:

a. Prohibit the servicing company from negotiating any new LAD buy-out contracts and continue making assignments for existing LAD buy-out arrangements.

b. Solicit one or more additional LAD servicing companies.

c. Any other remedy deemed appropriate by the Advisory Committee.

7. Termination of LAD Servicing Company

a. Conservation, liquidation or similar order of the Department of Insurance

If a servicing company is terminated due to conservation, liquidation, or similar order of the Insurance Commissioner, the Advisory Committee and Plan will be guided by the following:

(1) The Plan will provide immediate notice to the buy-out companies that the LAD servicing company will no longer be receiving

program assignments under LAD as of a specific date. Buy-out companies will have 90 days to either obtain another LAD buy-out arrangement or to prepare to receive their own assignments.

(2) Assignments to the servicing company will be restricted. The assignments that would have otherwise gone to the servicing company under the LAD arrangement will be temporarily distributed to companies with quotas who are not LAD buy-out companies. Once other satisfactory arrangements are made assignments to these companies shall be readjusted so that each company's quota is balanced

(3) The Advisory Committee may review the capacity of any other active LAD servicing companies to handle additional assignments. At their discretion, the Advisory Committee may solicit another LAD servicing company.

(4) If another LAD servicing company exists, the former buy-out companies will be temporarily excused from receiving assignments for a period of 90, days although each company's quota continues to accrue, during which time each company may obtain another LAD buy-out arrangement, if the company chooses to do so.

(5) If the opportunity to buy out with another active LAD servicing company does not exist, the former buy-out companies will be temporarily excused from receiving assignments for a period of 90 days, although each company's quota continues to accrue. At the conclusion of the period, companies must be prepared to handle their own assignments.

b. Any Other Reason

If a servicing company is terminated for any reason, other than those indicated in Section 8.B.7.a. the Advisory Committee and Plan will be guided by the following:

(1) The Advisory Committee will provide the servicing company with at least 90 days written notice of such termination. The servicing company will continue to receive assignments on behalf of its LAD buy-out companies until the termination date. After termination of the LAD arrangement the former servicing company must continue to service its LAD business until the end of three year assignment in the Plan has been reached, unless otherwise directed by the Advisory Committee.

(2) The Plan will provide the buy-out companies with at least 90 days written notice of termination of the servicing company, cancellation of the buy-out contracts, and dissolution of that LAD arrangement. Such notice shall indicate that the buy-out companies must either seek another LAD arrangement or be prepared to receive and write assignments.

(3) The servicing company may seek a LAD buy-out arrangement for its assignments and in-force policies.

c. Termination of Buy-out Company Contracts

When the procedures in Section 8.B.7 above are utilized, the existing contracts between the servicing company and buy-out companies are terminated and are subject to the provisions contained herein.

~~2~~. 8. Insurers that write 5% or less of California voluntary private passenger nonfleet car years may buy out from their quotas with approval of the Manager.

~~The Advisory Committee and Commissioner have the option to consider a buy-out contract for an insurer writing over 5% of California voluntary private passenger nonfleet car years. Such buy-out is subject to approval by the Advisory Committee and Commissioner.~~

The advisory Committee may recommend to the Commissioner that an insurer writing over 5% of the California voluntary private passenger nonfleet car years may buy-out from its quota. Such buy-out is subject to the approval of the Commissioner.

Companies may apply to the Advisory Committee for an exception. The Advisory Committee shall evaluate each exception and advise the Commissioner as to whether or not it recommends to accept or deny a new exception or revoke an existing exception for any circumstances.

Annually, all company exceptions will be reviewed by the Advisory Committee based upon each company's first quarter (February 1 through April 30) quota distribution reports. The Advisory Committee shall advise the Commissioner whether or not it recommends the exception continue or be revoked. Any company whose market share equals or exceeds 5% may have its market share exception revoked. If a company's market share exception is revoked, the Plan shall notify the buy-out company and servicing company by June 30th that the buy-out contract will terminate as of December 31 of that calendar year.

~~3.~~ 9. The Advisory Committee shall recommend, subject to the Commissioners approval, ~~and Commissioner will approve~~ ~~the basic~~ a standard LAD servicing company and buy-out company contract for use with the LAD program, including the minimum length of such contracts, which the parties may use if they choose to do so. Any substantive modifications to the ~~basic~~ standard contract must be approved by ~~the Advisory Committee and~~ the Commissioner before the contract may take effect.

~~4.~~ 10. The servicing company shall submit to the Manager an original of each buy-out contract and any subsequent amendments ~~to the Manger without the actual contract fee~~. The actual contract fee negotiated between the parties shall not be specified. The Manager shall maintain a buy-out contract file. The Manager shall review each contract within 10 days of its receipt. If the Manager determines that the buy-out contract ~~does not comply with LAD~~ ~~requirements~~ substantively differs from previously approved standard buy-out contract, the Manager shall advise the servicing company ~~of the manner of noncompliance~~ of the differences, and if appropriate, permit the parties to seek an exception. If the Manager determines that the buy-out contract does not substantively differ from previously approved standard buy-out contracts, the Manager shall provide a copy of the contract to the Commissioner.

~~5.~~ 11. The contract shall contain provisions agreed upon by the servicing company and the buy-out company regarding the buy-out company's Plan renewal business, and the obligations of the buy-out company with respect to the assignment period.

The contract may start on a date which the Plan, the buy-out company, and the servicing company specify, and shall run to the end of any calendar year.

~~6.~~ 12. In force Plan policies of the buy-out company in existence at the time of the effective date of the buy-out contract may be transferred to the servicing company upon expiration. The transfer must be agreed upon by the servicing company and the buy-out company in the contract. In addition, each insured transferred must meet the eligibility coverage through the Plan.

The buy-out company will verify the eligibility of each insured for a Plan renewal in accordance with Section 37. If the insured is eligible for a Plan renewal, the buy-out company will notify the insured and the producer that the Plan policy is being transferred to the servicing company. The servicing company shall issue a renewal policy in accordance with the procedures in Section 37. If the buy-out company determines that the insured is no longer eligible for a Plan policy, the buy-out company will issue a notice of nonrenewal in accordance with Section 37.

13. ~~A LAD servicing company may assume additional assignments from the Plan of up to twice its own current CAARP Private Passenger nonfleet quota, so that it may carry three times that volume, without prior written approval of the Commissioner.~~

~~Additional Plan assignments beyond the limit may be assumed by the servicing company, but only with the prior written approval of the Commissioner.~~

The Manager shall provide the Advisory Committee and Commissioner with a quarterly report of the buy-out contracts in effect.

~~6~~. 14. Once the LAD buy-out contract has been approved in accordance with the provisions of this subsection, the Plan shall send all assignments for all insurers in that LAD arrangement to the servicing company. Annually, the Plan shall indicate how much of the LAD servicing company's assigned risk business was needed to fulfill each buy-out company's quota. Any over/under assignment of the insurers in the LAD arrangement shall be attributed to the servicing company.

15. If a conflict exists between Section 8.B of this Plan and buy-out contracts, the provisions of this Plan shall apply.